

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. W.A. DREW )  
EDMONDSON, in his capacity as ATTORNEY )  
GENERAL OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, in his )  
capacity as the TRUSTEE FOR NATURAL )  
RESOURCES FOR THE STATE OF )  
OKLAHOMA, )

Plaintiff, )

vs. )

Case No. 05-CV-329-GKF-SAJ

TYSON FOODS, INC., TYSON POULTRY, INC., )  
TYSON CHICKEN, INC., COBB-VANTRESS, )  
INC., CAL-MAINE FOODS, INC., CAL-MAINE )  
FARMS, INC., CARGILL, INC., CARGILL )  
TURKEY PRODUCTION, LLC, GEORGE'S, INC., )  
GEORGE'S FARMS, INC., PETERSON FARMS, )  
INC., SIMMONS FOODS, INC., and WILLOW )  
BROOK FOODS, INC., )

Defendants. )

**ORDER**

This matter comes before the Court on the Motion of Poultry Partners, Inc. For Permission to File Brief as Amicus Curiae in Opposition to the Plaintiffs' Motion for Preliminary Injunction [Document No. 1398].

Participation as an amicus to brief and argue as a friend of the court is a privilege within the sound discretion of the court, depending upon a finding that the proffered information of amicus is timely, useful, or otherwise necessary to the administration of justice. *United States v. Michigan*, 940 F.2d 143, 165 (6th Cir. 1991).

An amicus brief should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the

decision in the present case (though not enough affected to entitle the amicus to intervene and become a party in the present case), or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide. [citations omitted]. Otherwise, leave to file an amicus curiae brief should be denied.

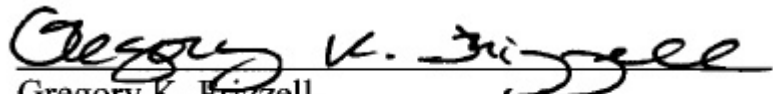
*Ryan v. Commodity Futures Trading Commission*, 125 F.3d 1062, 1063 (7th Cir. 1997) (Chief Judge Posner, in chambers). Amicus briefs filed by allies of litigants which duplicate the arguments made in the litigants' briefs, in effect merely extending the length of the litigant's brief, are an abuse and should not be allowed. *Id.* The term "amicus curiae" means friend of the court, not friend of a party. *Id.*

While the Court is mindful of the close ties between defendants and Poultry Partners, Inc., as shown in plaintiff's response, the Court concludes that the members of Poultry Partners, Inc. have a unique perspective that can help the Court beyond the help that the lawyers for the parties are able to provide in connection with plaintiffs' Motion for Preliminary Injunction. Counsel for Poultry Partners, Inc. shall take special care in avoiding duplication of defendants' briefs.

In the absence of an applicable rule of civil procedure pertaining to amicus briefs, the Court will use Rule 29 of the Federal Rules of Appellate Procedure as a guide to process and timing. To prevent redundancy with defendants' briefs, Poultry Partners, Inc. may file its amicus brief no later than seven (7) days after defendants' response briefs are filed, and in no event later than February 15, 2008. Fed. R. App. P. 29(e). Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by the local rule for a response brief. If the Court grants defendants permission to file longer briefs, that extension does not affect the length of an amicus brief. Fed. R. App. P. 29(d).

WHEREFORE, the Motion of Poultry Partners, Inc. For Permission to File Brief as Amicus Curiae in Opposition to the Plaintiffs' Motion for Preliminary Injunction [Document No. 1398] is granted.

IT IS SO ORDERED this 8<sup>th</sup> day of January 2008.

  
Gregory K. Frizzell  
United States District Judge  
Northern District of Oklahoma